

PATENT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

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| Applicant: | FAHEY ET AL. |) | |
| | |) | Examiner A. Flanders |
| Appl. No. | 09/972,381 |) | |
| | |) | Art Unit 2644 |
| Confirm. No. | 5141 |) | |
| | |) | Atty. Docket No. CS90041 |
| Filed: | 5 October 2001 |) | |
| Title: | "Mobile Wireless Communication Handset with Sound Mixer And Methods Therefor" | | |

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Assistant Commissioner for Patents
Alexandria, Virginia 22313

Sir:

REMARKS

Discussion of Claim 1

The Examiner's assertion that paragraphs [0038-40] of Hurska disclose a method for creating a polyphonic audio mix on a handheld mobile wireless communication device including "... storing the audio mix data reference file having the first and second reference data on the handheld mobile wireless communication device separately from the soundtrack data set file" limitations of Claim 1 is misplaced.

In paragraph [0038], Hruska discusses a computer application residing on a personal computer or Internet server for simulating mobile

device operation, not a method for "... creating a polyphonic audio mix on a handheld mobile wireless communication device...." Moreover, in Hruska, the relationship between the MIDI reference file and the control file is not the same as the relationship between "audio mix data reference file having the first and second reference data" and the "soundtrack data set file" of Claim 1. At paragraph [0020], Hruska discloses that the MIDI sequence file contains a 16-measure repeating musical pattern in 4/4 time with 4 distinct musical parts, (e.g., drums bass, harmony and solo). The control file in Hruska specifies which pattern of each part of the MIDI sequence file is active (ON or OFF). Claim 1, in contrast, covers that generation of an "... audio mix data reference file" having first and second reference data of a soundtrack data set file wherein "... the audio mix data reference file having the first and second reference data [is stored] on the handheld mobile wireless communication device separately from the soundtrack data set file."

Hruska also fails to disclose generation of an "...audio mix data reference file having the first and second reference data representative of a user defined polyphonic audio mix..." on a handheld mobile wireless communication device. At paragraph [0038], Hruska discloses generating the MIDI sequence file and control file on a personal computer or server. At paragraph [0038], Hruska discloses combining the MIDI sequence file and control file before downloading the file onto the mobile device. At paragraphs [0040-41], Hruska discusses means for downloading content onto the mobile device. Claim 1 is thus patentably distinguished over Hruska.

Discussion of Claim 10

The Examiner's assertion that the MIDI sequence file and control files of Hruska correspond to the "audio mix data reference file" and the "soundtrack data set file" of Claim 10 is also misplaced.

In paragraph [0038], Hruska discusses a computer application residing on a personal computer or Internet server for simulating mobile device operation, not a method for "...playing a polyphonic audio mix on a handheld mobile wireless communication device having a soundtrack data set file stored thereon" At paragraph [0038], Hruska discloses generating the MIDI sequence file and control file on a personal computer or server, and downloading the combined MIDI sequence file and control file onto a mobile device. Thus Hruska does not disclose an "...audio mix data reference file stored separately from the soundtrack data set file on the handheld mobile wireless communication device" as in Claim 10.

Also, in Hruska, the relationship between the MIDI reference file and the control file is not the same as the relationship between "audio mix data reference file having the first and second reference data" and the "soundtrack data set file" of Claim 10. At paragraph [0020] of Hruska, the MIDI sequence file contains a 16-measure repeating musical pattern in 4/4 time with 4 distinct musical parts, (e.g., drums bass, harmony and solo). The control file in Hruska specifies which pattern of each part of the MIDI sequence file is active (ON or OFF). Claim 10, in contrast, covers an "... audio mix data reference file" having first and second reference data of a soundtrack data set file wherein "...the audio mix data reference file [is] stored separately from the soundtrack data set file on the handheld mobile wireless

communication device." Claim 10 is thus patentably distinguished over Hruska.

Discussion of Claim 14

Hruska does not disclose "... integrating the audio mix data reference file and the soundtrack data set file into an audio format file" on a handheld mobile wireless communication device. At paragraph [0038], Hruska discusses generating a MIDI sequence file and control file on a personal computer or server and downloading the combined file onto a mobile device. Hruska does not disclose combining files on the mobile device and then uploading the combined files. Claim 14 is thus patentably distinguished over Hruska.

Discussion of Claim 34

Regarding Claim 34, the Examiner's references to various passages of Hruska to support the rejection are misplaced. In Hruska, at paragraph [0020], a MIDI sequence files having a 16-measure repeating musical pattern specifies the time intervals of distinct musical parts (e.g., drum, bass, harmony and solo). At para. [0024], Hruska discusses a text control file that specifies which pattern of each part of the MIDI sequence file is active (ON or OFF). Hruska does not disclose soundtracks having different time intervals. In Hruska, each musical part (e.g., drum, bass, harmony and solo) has the same 16-measure time interval. Claim 34 is thus patentably distinguished over Hruska.

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Art Unit 2644

Prayer For Relief

In view of the discussion above, the Claims of the present application are in condition for allowance. Kindly withdraw any rejections and objections and allow this application to issue as a United States Patent without further delay.

Respectfully submitted,

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